

State and Local Employment Laws Not to Overlook During the Coronavirus Pandemic

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Certain states, including Illinois, have imposed mandatory harassment training requirements in 2020. Other laws not to overlook in this new working environment include state laws governing video interviews and local sick leave laws. Employers should consider contacting legal counsel to assist with training programs and the drafting of internal policies to ensure compliance with currently applicable employment laws.

Mandatory Sexual Harassment Training Pursuant to the Illinois Workplace Transparency Act

The Illinois Workplace Transparency Act included numerous amendments to the Illinois Human Rights Act, which took effect earlier this year. One such amendment mandated that all employers with employees in Illinois provide sexual harassment training to their employees by December 31, 2020.

The Illinois Human Rights Act also was amended this year to apply more broadly to any entity with one employee or more and to working environments beyond the physical location at which employees work. As such, any employer with employees in Illinois must provide this training by the end of the year.

The Illinois Department of Human Rights (the "IDHR") has released a model training program, but the IDHR also allows employers to develop and implement their own compliant programs tailored to their business and applicable policies. The training can be delivered virtually by a third party training provider. Benesch's Labor & Employment attorneys have experience customizing these trainings for employers.

Artificial Intelligence Video Interview Act (effective January 1, 2020)

The Illinois Artificial Intelligence Video Interview Act took effect January 1, 2020. The Act prohibits employers from sharing video interviews, except with persons necessary to evaluate an applicant's qualifications for the position. Employers must delete the videos within 30 days of their receipt of an employee's request. Because employers are conducting video interviews at a much greater frequency during the coronavirus pandemic, those employers who might record interviews should implement policies to address these requirements under the Act.

The Act additionally requires employers to obtain consent from applicants before using "artificial intelligence" to evaluate an applicant's video interview and qualifications for the position. The consent must notify each applicant before the interview that artificial intelligence may be used to analyze the applicants' video interview and fitness for the position; and explain the artificial

intelligence usage and the general types of characteristics considered in the evaluation of applicants.

Local Sick Leave Laws

Illinois employers operating in Chicago or Cook County should ensure compliance with sick leave ordinances in those localities. Both the Chicago Paid Sick Leave Ordinance and the Cook County Earned Sick Leave Ordinance require employers to provide eligible employees with at least one hour of paid sick leave for every 40 hours worked, subject to other requirements. Employees may use paid sick leave for their own illnesses as well as those suffered by a qualifying family member. Employees also may use this paid sick leave if their workplace is closed by “order of a public official due to a public health emergency” or if the employee must care for a child whose school or place of care has been closed by such an order.

Many other states and localities have passed new sick leaves laws and guidance for employers since the advent of COVID-19.

Employers should seek legal counsel to ensure compliance with current local, state and federal employment laws. For more information, please contact a member of Benesch’s Labor & Employment Practice Group.

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Please note that this information is current as of the date of this Client Alert, based on the available data. However, because COVID-19’s status and updates related to the same are ongoing, we recommend real-time review of guidance distributed by the CDC and local officials.

